

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

RESCO PRODUCTS, INC

and

Case 14-CA-24512-1

**VESSELL MINERAL PRODUCTS
CORPORATION**

and

Case 14-CA-24512-2

**UNITED STEELWORKERS OF AMERICA,
AFL-CIO, CLC**

Christal J. Gulick, Esq. for
the General Counsel.

Terry L. Potter, Esq., (Peper, Martin,
Jensen, Maichel and Hetlage) for Respondent VMPC.

Karl A. Sauber, Esq., (Diekemper, Hammond,
Shinners, Turcotte and Larrew, P.C.) for the
Charging Party-Union.

DECISION

Statement of the Case

Michael O. Miller, Administrative Law Judge. This case was tried in St. Louis, Missouri on October 29, 1997, based upon charges and amended charges filed by the United Steelworkers of America, AFL-CIO, CLC (the Union) on April 7, June 17 and June 18, 1997 and a consolidated complaint which issued on June 30, 1997, as thereafter amended. That complaint alleges that Resco Products Co. (RESCO) violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act) by unilaterally failing and refusing to pay accrued vacation pay due its employees under its collective bargaining agreement with the Union. It further alleges that Vessel Mineral Products Corporation (VMPC), as the successor to RESCO, interfered with, restrained and coerced its employees in the exercise of their statutory rights, in violation of Section 8(a)(1), by conditioning offers of employment upon their waiver of contractually accrued vacation pay and by threatening employees with termination if they accepted checks to be tendered them in payment of that vacation pay. And, it alleged that VMPC failed to bargain in good faith, in violation of Section 8(a)(1) and (5), with the representative of its employees by failing to continue in effect the terms and conditions of employment which it had assumed by repudiating the obligation to pay employees their accrued vacation pay.

RESCO and VMPC's timely filed answers deny the commission of any unfair labor

practices.

Based upon my observation of the witnesses and consideration of the entire record, including the briefs filed by General Counsel and the Respondents, I make the following:

5 Findings of Fact¹

I. Jurisdiction

10 Until January 1, 1997, RESCO, a Pennsylvania corporation with its principal offices in Norristown, Pennsylvania and plants located throughout the United States, including the plant located in Bonne Terre, Missouri, was engaged in dolomite lime production. The Bonne Terre facility is the only one involved in these proceedings. The complaint alleges, and RESCO admits that, during the twelve month period preceding January 1, 1997, RESCO sold and shipped from its Bonne Terre facility goods valued in excess of \$50,000 directly to points of the United States outside the State of Missouri. RESCO admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

20 Since January 1, 1997, VMPC, a Missouri corporation, with its office and place of business in Bonne Terre, Missouri, has been engaged in the business of dolomite lime production. The complaint alleges, and VMPC admits that the projection of its operations since January 1, 1997 establishes that it would annually ship from its Bonne Terre facility goods valued in excess of \$50,000 directly to points outside the State of Missouri. VMPC admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

25 RESCO and VMPC admit, and I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

A. Background

30 For many years, RESCO owned and operated the Bonne Terre, Missouri dolomite lime production plant. Since about 1967, the Union was recognized as the exclusive collective-bargaining representative of the hourly production and maintenance employees at that plant² That recognition was embodied in a series of collective bargaining agreements, the last of which ran from August 16, 1996 to August 15, 1997.

35 Included within that collective bargaining agreement was a provision for annual vacations. For employees who began before August 16, 1987, the vacations ranged from two to five weeks. For those whose service commenced after that date, the vacations ranged from one to three weeks.

40 Section 4 of the Vacation Article provided:

45 ¹ The facts have, in substantial part, been stipulated by the parties and are not in dispute. Although fully apprised of the hearing, no appearance was made on behalf of RESCO; in lieu of an appearance, RESCO submitted a stipulation of facts, in which the Counsel for the General Counsel and the Union joined.

² The unit, stipulated to be appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, was:

All hourly production and maintenance employees employed by RESCO at its Bonne Terre, Missouri facility, EXCLUDING office clerical and professional employees, watchmen, laboratory employees, guards and supervisors as defined in the Act.

Any employee quitting or discharged shall be paid the pro rata part of his earned vacation . . .

The agreement also provided for a pension plan. That plan paid retired employees \$17 per month for each year of service. Normal retirement age was 65 but employees with 35 years of service could retire at age 55. The maximum pension was for 35 years of service (\$595 per month).

B. Sale of the Plant

In October 1996,³ RESCO began negotiating to sell the Bonne Terre facility to Royce Vessell, its vice president for operations. Those negotiations culminated in an agreement for Vessell's newly created corporation, VMPC, to purchase the Bonne Terre assets, executed December 18 and effective January 1. Upon its execution, Royce Vessell ceased to function as RESCO's vice president although he retained a supervisory role. He became VMPC's President. RESCO notified the Union of the sale of the plant.

In that purchase and sale agreement, VMPC expressly acquired, assumed and paid for the hourly employees pension plan. Thus, VMPC's purchase price included "the sum of . . . being the value of the over funded portion of the Resco Products of Missouri Hourly Employees Pension Plan . . . which the Buyer is assuming. . . .

VMPC also assumed RESCO's liabilities to the employees for accrued vacation benefits. The cost of that liability, in excess of \$80,000, was deducted from the price it paid to acquire the pension plan. The agreement stated:

2.2.1. Buyer shall assume as of the Closing Date, and pay when due, the following liabilities of the Seller ("Liabilities");

2.2.2. Effective the Closing Date, Buyer shall assume and agree to pay, perform and discharge, and to indemnify Seller against and hold it harmless from any costs, expenses, losses or liabilities, including attorneys' fees, suffered by Seller by reason of:

* * *

(d) obligations and liabilities of Seller with respect to vacation rights due to hourly employees resulting from termination of the Union Agreement with the United Steelworkers of America. The cost to Buyer will be . . . deducted from . . . [the] purchase price of the Pension Plan . . . and Buyer indemnifies and holds Seller harmless from any loss, costs or expenses . . . in the event that the hourly workers are not paid by the Buyer or do not accept payment from the Buyer.

In early December, prior to the transfer of the plant, about six employees were permanently laid off due to a loss of business. RESCO paid each of them their accrued vacation pay.

C. Vessell and VMPC Meet with the Employees

On December 20, Royce Vessell, VMPC's (and RESCO's) human relations manager Flora Denton, and VMPC's attorney Brad Hiles met with virtually all of the unit employees. Royce Vessell told them that he was "on the hook" for their accrued vacation pay. Those "individuals on the hourly payroll of Resco Products Incorporated as of December 20" were

³ All dates are from October 1996 to June 1997 unless otherwise indicated.

given offers which detailed the offered terms and conditions of employment, including wages, health and life insurance, vacations and pensions. It expressly provided:

5 Note: By accepting this offer, an employee agrees to waive and release any claims against Resco Products Incorporated and [VMPC] pertaining to accrued pay or vacation time, whether or not such claims exist at the time this offer is accepted.

10 In regard to the pension plan, it was noted that VMPC would maintain the same defined benefit pension plan previously provided by RESCO but would increase the benefit by \$1.50 per month per year of credited service.

 The waiver of claims pertaining to accrued vacation pay and time was repeated in the acceptance clause.

15 Hiles explained that the employees' accrued vacation pay would be taken away as of January 1 in exchange for which they would receive the increased pension benefit. Royce Vessell made clear that they had to sign the offer as proposed in order to secure continued employment but that, if they wanted the accrued vacation pay rather than the job, they could have it.

20 Thirty-one of thirty-four employees accepted the employment offers and signed the proffered waivers; they did not get their accrued vacation pay upon their December 31 termination by RESCO. Three employees declined the offer; they received the accrued vacation pay and were terminated effective December 31.⁴

25 There had been no notice to, or bargaining with, the Union by either RESCO or VMPC concerning the waiver or the substitution of increased pension benefits for the accrued vacation pay.

30 On February 10, the Union filed a grievance against RESCO on behalf of those employees who accepted employment with VMPC, seeking their accrued vacation pay. It has never been paid and that grievance is, apparently, still pending. An unfair labor practice charge filed on April 7, as amended on August 17, 1997, alleged that RESCO had abrogated its contractual obligation by unilaterally failing to pay its employees their accrued vacation benefits. This grievance came to VMPC's attention in mid March.

D. Recognition and Bargaining

35 As of January 1, VMPC continued to operate the business "in basically an unchanged form and employed as a majority of its employees individuals who were previously employees of . . . Resco." It was further stipulated that "VMPC has continued the employing entity and is a successor to . . . Resco." VMPC recognized the Union as the collective bargaining representative of the unit employees and entered into negotiations for a new labor agreement.

40 After receiving notice of the vacation pay grievance filed against RESCO, VMPC met with the Union in a negotiating session on March 18. Present for VMPC were Royce Vessell, Flora Denton and Brad Hiles. The Union was represented by its International Representative, James Peek, its Local Union president and a number of employee members of the negotiating committee. After some introductory matters, Hiles stated that the employer wanted to get to the bottom of the vacation pay issue; he asked for a copy of the Union's grievance. He then told the

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⁴ They were paid their accrued vacation pay by RESCO and RESCO was then reimbursed by VMPC. One employee sought to limit his acceptance with language to the effect that he was reserving his rights under federal labor laws. Denton rejected his language and insisted that, if he wished to be employed by VMPC, he had to sign the offer as it was made to him. He did so.

Union committee that VMPC was willing to pay all of the employees their accrued vacation pay that day. If they accepted those checks however, he stated, they would be terminated.

The parties caucused and, when they got back together, Hiles reiterated VMPC's offer, changing it only to indicate that the checks would be ready on Friday. Once again, the employees were told that they could have those checks if they wanted them, but that, if they accepted payment for accrued vacation pay, they forfeited their employment. The Union never agreed to VMPC's proposal.

The other employees were told of VMPC's latest "offer" at a union meeting held on March 20. When the employees went in to pick up their paychecks on that Friday, they were required to either accept their vacation pay check or, once again, sign the following express waiver:

I decline receipt of a check for \$_____, representing my accrued vacation pay under the collective bargaining agreement between Resco, Inc. and Steelworkers Local 8734.

The vacation pay checks were in various and not insubstantial amounts. Employee Denzele Grimes declined a check in the net amount of \$689.19 (\$1038.69 gross); Jame's Weible's check was for \$3552.20 (\$6404.58 gross).

E. Analysis

1. RESCO's 8(a)(5) Violation

When RESCO terminated its employees on December 31, it became liable, under its contract, to pay them their accrued vacation pay. It recognized this when it paid those employees laid off prior to December 31 for the vacation pay they had coming. It also recognized this, in its agreement with the purchaser, when it reduced the sales price by the value of the accrued vacation pay and provided that VMPC would make it whole if RESCO was required to pay that vacation pay to those employees.

It is elemental contract law that a party to a contract cannot escape its obligations by agreeing with a third party to assume them. *Williston on Contracts*, 3rd Ed. (1960), Section 411, pp. 18-19. See also, *Gulf-Wandes Corporation*, 236 NLRB 810 91978). In that case, an employer who had recognized an international union was found not to have breached its obligations under the contract's checkoff provisions when it refused to acquiesce in the international's assignment of the dues debt to a local union. Here, the Union never acquiesced in the transfer of liability and, on behalf of the employees, it demanded that RESCO meet its obligations.

Moreover, it is no defense that the employees may have signed documents purporting to waive their rights to the accrued vacation pay. In the first instance, the documents signed by the employees merely indicated that the signatory was declining a check proffered by VMPC, not necessarily waiving rights as against RESCO. More significant, however, is the principle that, even if Vessell was acting as agent of RESCO in securing these purported [and coerced] waivers, an employer may not change terms and conditions of employment by dealing directly with its employees. *Clemson Bros.*, 290 NLRB 944, 952 (1988).

RESCO has failed to comply with the demand that it pay the terminated RESCO employees their accrued vacation pay and its failure is more than a mere contract breach, it is a total abrogation of all remaining bargaining obligations in violation of Section 8(a)(5). *King Manor Care center*, 308 NLRB 884, 887, (1992); *Zimmerman Painting & Decorating*, 302 NLRB 856, 857 (1991). I so find.

2. VMPC's Liability and Conduct in Violation of Section 8(a)(1) and (5)

a. 8(a)(1)

VMPC contends that, as a successor employer, it was free to set whatever initial terms and conditions it chose and that the employees were free to accept or reject employment upon those terms. *Marriott Management Services*, 318 NLRB 144 (1995); *Planned Building Services*, 318 NLRB 1049 (1995); *Spruce Up Corp.*, 209 NLRB 194, 195 (1974). Thus, it argues that conditioning employment upon their acceptance of higher pension benefits in lieu of vacation pay which had accrued to them as RESCO employees did not restrain them in the exercise of Section 7 rights.

The General Counsel, however, draws a distinction between the setting of future wages and benefits and the conditioning of employment upon the relinquishment of accrued contractual benefits. The latter, it is argued, presents the employees with a Hobson's choice between continued employment and the abandonment of rights guaranteed under the Act. *Borden, Inc.*, 308 NLRB 113, 115 (1992). In that case, the employer merged two units of employees, both of which had been represented by a single union recognized by the employer. The employer required that the employees in the unit which had the superior benefits accept the lesser benefits of the agreement covering the other unit as a condition of continued employment. Those employees who retired rather than accepting the lesser benefits were found to have been constructively discharged in violation of Section 8(a)(3) and (1).⁵ The employer's statements to the effect that employees would be denied transfers to the new facility unless the union agreed to waive their rights to their contractual benefits were deemed violative of Section 8(a)(1).

The General Counsel's argument, I find, is the more persuasive. The employees had accrued contractual rights to their vacation pay as terminated employees of RESCO. They had a *statutory* right to insist upon payment by RESCO. Their Union had filed a grievance on their behalf seeking to enforce those rights. As Vessell had acknowledged to them, VMPC was "on the hook" for the costs of those benefits. It was obligated to make RESCO whole, to the extent that the former RESCO employees insisted upon payment.⁶ To wriggle off that hook, it demanded, as a condition of employment, that the employees waive their statutory rights. In essence, it threatened employee-applicants with the denial of employment on December 20, and current employees with discharge on March 18 and March 21, if they did not give up those rights. The conditioning of employment upon the waiver of Section 7 rights or upon the abandonment of a grievance violates Section 8(a)(1). *Retlaw Broadcasting Co.*, 310 NLRB 984, 991 (1993); *Prince Trucking Co.*, 283 NLRB 806, 807(1987). It also negates the validity of any "waiver" resulting from such coercion. *Clemson Bros.*, *supra*, at 951-952.

b. 8(a)(5)

It may be that, by virtue of its liability to RESCO, VMPC's financial responsibilities will be fully satisfied. However, the complaint mandates that I determine whether its conduct independently violated Section 8(a)(5).

⁵ While a contention that I should find that the three employees who declined VMPC's offer of employment, received their accrued vacation pay and were terminated, to have been constructively and discriminatorily discharged would appear to be warranted herein, no such argument was presented.

⁶ It is clear to me that Vessell intended, from the get-go, to discourage these employees from asserting their rights to their accrued vacation pay. Thus, the sales agreement, Section 2.2.2 (3) (d), expressly refers to the possibility that the buyer, VMPC, might not pay the employees their accrued vacation pay, *or that the employees might not accept payment of it from VMPC.*

Contrary to VMPC's contentions, its agreement with RESCO clearly and expressly provided that it would assume RESCO's vacation pay and pension obligations arising from the collective bargaining agreement.⁷ Vessell's meeting with the employees on December 20, wherein he acknowledged continuity of the pension benefits and "being on the hook" with respect to the accrued vacation benefits, satisfied the Board's requirement of consent to an adoption of the contract. *Field Bridge Associates*, 306 NLRB 322, 323 (1992); *E G & G Florida, Inc.*, 279 NLRB 444, 453 (1986).⁸ Having assumed those aspects of the agreement, it was not free to unilaterally change, or to "bargain" directly with the employees for modifications of, them. Its failure to notify and bargain with the Union, which it recognized as the employees' collective bargaining representative, over changes in the payment of accrued vacation pay (and pension benefits), and its repudiation of its contractual obligation to pay the employees terminated by RESCO their accrued vacation pay, violated Section 8(a)(5). It is, I find, jointly and severally liable, with RESCO, to make these employees whole.

c. *Golden State* Liability

In *Golden State Bottling v. NLRB*, 414 U.S. 168 91973), the Supreme Court held that a successor employer who acquires and continues a business with knowledge that the predecessor had committed an unfair labor practice may be found jointly and severally liable, with the predecessor, to remedy that unfair labor practice. General Counsel seeks application of that principle to the facts of this case. While I have found that VMPC independently violated Section 8(a)(5) and is therefore jointly and severally liable, with RESCO, to make the employees whole for the losses they suffered as a result of that violation, I cannot find *Golden State* applicable. At the point in time that VMPC acquired RESCO, RESCO had committed no unfair labor practices. Its violations occurred thereafter, when it abrogated its continuing obligations.⁹

d. Deferral to Contractual arbitration Procedures

VMPC seeks deferral of this dispute to the contract's grievance/arbitration procedures. However, it has no contract with the Union and did not assume that portion of RESCO's contract which included a grievance procedure. Deferral of the allegations involving VMPC is therefore inappropriate.

Conclusions of Law

1. By abrogating its agreement with the United Steelworkers of America, AFL-CIO, CLC, thereby failing and refusing to bargain in good faith, Resco Products, Inc. has engaged in an unfair labor practice affecting commerce within the meaning of Section 8(a)(5) and (1) and

⁷ That the price Vessell paid for the over-funded portion of the pension plan was reduced by the exact cost to VMPC of the assumption of RESCO's obligations with respect to the accrued vacation pay (assuming that VMPC were to pay it in full) belies any contention that Vessell presumed that it had no liability for accrued vacation pay.

⁸ Vessell's pre-emptive strike with respect to accrued vacations and pensions deprived the Union of an opportunity to consent to the adoption of those portions of its contract. However, the union engaged in no conduct inconsistent with consent and, when given the opportunity, timely objected to VMPC's unilateral actions.

⁹ General Counsel also argues that VMPC knew or should have known that RESCO intended to abrogate this portion of its collective bargaining agreement based upon the terms of the purchase and sale agreement, reducing the purchase price by the exact amount of the accrued vacation pay liability. However, if VMPC had satisfied its obligations with respect to the vacation pay, there would have been no unfair labor practice or unfair labor practice charge.

Section 2(6) and (7) of the Act.

2. By conditioning employment upon the waiver of statutory rights and threatening employees with discharge unless they waived statutory and contractual rights, Vessell Mineral Products Corporation has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

3. By unilaterally and without notice to the Union abrogating the adopted terms of an agreement with the United Steelworkers of America, AFL-CIO, CLC, thereby failing and refusing to bargain in good faith, Vessell Mineral Products Corporation has violated Section 8(a)(5) and (1).

Remedy

Having found that RESCO abrogated its collective bargaining agreement by failing to pay its employees their accrued vacation pay upon termination, which conduct is an unfair labor practice, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act, including making those employees whole by payment to them of that accrued vacation pay, plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

Having found that VMPC has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act, including making its employees whole for the accrued vacation pay to which they were entitled under the portion of the RESCO-United Steelworkers of America, AFL-CIO, CLC collective bargaining agreement assumed by it, plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended¹⁰

ORDER

Resco Products, Inc., Norristown, Pennsylvania, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

- a. Bargaining in bad faith with the United Steelworkers of America, AFL-CIO, CLC, by abrogating the terms of the collective bargaining agreement between it and that Union.
- b. In any like or related manner, interfering with, restraining and coercing its employees in the exercise of rights guaranteed by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

- a. Jointly and severally with VMPC make whole those employees whom it terminated on December 31, 1996 for any loss of accrued vacation pay, in the manner set forth in the remedy section of this Decision.

¹⁰ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

- b. Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.
- c. Within 14 days after service by the Region, mail a copy of the attached notice marked "Appendix A"¹¹ to all bargaining unit employees in the Bonne Terre, Missouri facility who were employed by RESCO and terminated on December 31, 1996. The notice shall be mailed to the last known address of each of the employees after being signed by the Respondent RESCO's authorized representative.
- d. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Vessell Mineral Products Corporation, Bonne Terre, Missouri, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

- a. Bargaining in bad faith with the United Steelworkers of America, AFL-CIO, CLC, by abrogating the terms of the collective bargaining agreement between Resco Products, Inc. and that Union which it adopted.
- b. Conditioning employment upon the waiver of statutory rights or threatening employees with discharge or if they refuse to waive statutory and contractual rights.
- c. In any like or related manner, interfering with, restraining and coercing its employees in the exercise of rights guaranteed by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

- a. Jointly and severally with RESCO, make whole the employees whom it failed and refused to pay their accrued vacation pay for any losses incurred, in the manner set forth in the remedy section of this Decision.
- b. Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.
- c. Within 14 days after service by the Region, post at its facility in Bonne, Terre, Missouri, copies of the attached notice marked "Appendix B."¹² Copies of the

¹¹ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "MAILED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "MAILED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

¹² If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS

Continued

5 notice, on forms provided by the Regional Director for Region 14, after being
signed by the Respondent's authorized representative, shall be posted by the
Respondent immediately upon receipt and maintained for 60 consecutive
days in conspicuous places including all places where notices to employees
are customarily posted. Reasonable steps shall be taken by the Respondent
to ensure that the notices are not altered, defaced, or covered by any other
material. In the event that, during the pendency of these proceedings, the
Respondent has gone out of business or closed the facility involved in these
10 proceedings, the Respondent shall duplicate and mail, at its own expense, a
copy of the notice to all current employees and former employees employed
by the Respondent at any time since December 31, 1996.

- 15 d. Within 21 days after service by the Region, file with the Regional Director a
sworn certification of a responsible official on a form provided by the Region
attesting to the steps that the Respondent has taken to comply.

20 Dated, Washington, D.C. February 23, 1998

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Michael O. Miller
Administrative Law Judge

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BOARD.”

APPENDIX "A"

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT bargain in bad faith with the United Steelworkers of America, AFL-CIO, CLC, by abrogating the terms of our collective bargaining agreement with Union covering the employees in the following unit:

All hourly production and maintenance employees employed by Resco at its Bonne Terre Missouri facility, EXCLUDING office clerical and professional employees, watchmen, laboratory employees, guards and supervisors as defined in the Act.

WE WILL NOT in any like or related manner, interfere with, restrain and coerce our employees in the exercise of rights guaranteed by Section 7 of the Act.

WE WILL, jointly and severally with Vessell Mineral Products Corporation, make all our employees whom we terminated on December 31, 1996 whole by payment to them of the accrued vacation pay to which they were entitled, plus interest.

RESCO PRODUCTS, INC.

(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered with any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 1222 Spruce Street, Room 8.302, Saint Louis, Missouri 63103-2829, Telephone 314-539-7770.

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT condition employment upon the waiver of statutory rights or threaten employees or with discharge unless they agree to waive their statutory and contractual rights.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL NOT bargain in bad faith with the United Steelworkers of America, AFL-CIO, CLC, by unilaterally failing to comply with those terms which we adopted of the collective bargaining agreement with Union covering the employees in the following unit:

All hourly production and maintenance employees employed by Vessell Mineral Products Corporation at its Bonne Terre Missouri facility, EXCLUDING office clerical and professional employees, watchmen, laboratory employees, guards and supervisors as defined in the Act.

WE WILL, jointly and severally with Resco Products, Inc., make all of our employees whole by payment to them of the accrued vacation pay to which they were entitled, plus interest.

VESSELL MINERAL PRODUCTS CORPORATION

(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered with any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 1222 Spruce Street, Room 8.302, Saint Louis, Missouri 63103-2829, Telephone 314-539-7770.